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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,902	02/26/2002	Tim Chase	10952US05	6356
7590	01/19/2005		EXAMINER	
MCANDREWS, HELD & MALLOY, LTD. 34TH FLOOR 500 W. MADISON STREET CHICAGO, IL 60661			FLANDERS, ANDREW C	
			ART UNIT	PAPER NUMBER
			2644	

DATE MAILED: 01/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/083,902	CHASE, TIM	
	<b>Examiner</b>	<b>Art Unit</b>	
	Andrew C Flanders	2644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 26 February 2002.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 26 February 2002 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All
  - b) Some \*
  - c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 03/20/03.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 8 is objected to because of the following informalities: the term "contract" should apparently read "contact". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 1, 2, 5, 6, 9, 10, 13, 14, and 17 – 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Noreen (U.S. Patent 5,455,823).

4. Regarding Claim 1, Noreen discloses a broadcast base station that provides digital audio and high rate data broadcasts all directed to mobile stations (col. 8 lines 4 – 6) (i.e. receiving at least a first audio signal on a first production system and at least a second audio signal on a second production system), broadcasters can operate their own broadcast base stations, transmitting a single digital audio or high rate data channel and digital audio broadcast base stations digitize and compress audio signals, then encode and modulate these signals and transmit them at Ku-band to the satellite the satellite

transponds the signals which the satellite receives from the broadcast base stations to the mobile communications frequency and broadcasts them directly to mobile users (col. 18 lines 61 – 67 and col. 18 lines 1 – 2) (i.e. digitally encoding the first and second audio signals with a lossy compression algorithm to yield respective first and second lossy encoded files of lossy audio information), selectable channels sent to the fixed stations can have a wide variety of data rates and frequencies, each selectable channel may be addressed or assigned to all mobile stations, to a group of mobile stations, or to an individual mobile station by information delivered through the TDM channel (col. 8 lines 26 – 32) (i.e. predetermining a first group of tail end user apparatus for use of the first lossy encoded file and a second group of tail end user apparatus for use of the second lossy encoded file and transmitting the lossy encoded files from the first and second production systems to a hub for automatic selective forwarding of the first and second lossy encoded files by the hub to the first and second groups of tail end user apparatus respectively) and a mobile station configured to receive and playback the audio (Fig. 2) (i.e. receiving, decoding, and playback broadcasting of the first and second lossy encoded files respectively on the first and second group of tail end user apparatus, said decoding using a decoding algorithm for decoding of the lossy encoded file encoded with the lossy encoding algorithm).

5. Regarding Claim 2, in addition to the elements stated above regarding claim 1 Noreen further discloses the broadcast digital audio to mobile stations (col. 8 lines 4 – 6) (i.e. wherein the transmission step (d) takes place without further lossy compression of the lossy audio information in the lossy encoded

file), and data channels are collected from various sources and then assembled into one TDM channel for each mobile satellite beam and the radio satellite network center uses time division multiplexing to commutate the collected data into one TDM channel for each mobile satellite beam and each mobile station receives the TDM channel for the satellite beam in which the mobile station is located at all times whenever the mobile station is on (col. 8 lines 7 – 25) and the information is sent in a selectable channel look-up table (col. 8 lines 39 – 44) (i.e. the transmission step (d) includes transmission of a live encoded audio data stream by automatic multiplexing and transmitting the audio data stream with the lossy encoded file and the receiving step (e) includes automatically demultiplexing of the received multiplexed audio data stream and lossy encoded file, and live decoding and use of the audio data stream by the tail end user apparatus).

6. Regarding Claims 5 and 6 in addition to the elements stated above regarding claims 1 and 2, Noreen further discloses a data signal identifying addition information (col. 8 lines 44 – 46) and the selectable channel demodulator which is coupled to the RF electronics, receives a selectable data rate and frequency command signal which includes data rate information and frequency information for the selectable channels to identify the data rate and frequency of a channel by automatic functions (col. 11 lines 35 – 45) (i.e. transmitting a command in connection with the lossy encoded file, and automatic activation and use o the lossy encoded file according to the command).

7. Regarding Claims 9, 10, 13, 14, and 17 – 19, in addition to the elements stated above regarding claims 1, 2, 5, and 6, Noreen discloses when the mobile station is powered back on the device tunes in to each TDM channel and commands the TDM channel demodulator and decoder to tune into the strongest TDM channel (col. 15 lines 45 – 53) (i.e. pre-determination of whether to transmit through an extraterrestrial satellite or other link and then transmitting through the determined link).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 3, 4, 7, 11, 12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noreen (U.S. Patent 5,455,823) in view of Bateman (U.S. Patent 4,947,440).

10. Regarding Claims 3 and 4 in addition to the elements listed above regarding claims 1 and 2, Bateman discloses an automatic audio crossfade (col. 1 line 39) (i.e. playing the decoded file and automatically cross-fading the playback of the decoded file with the playback of a second audio file on the tail end user apparatus). One of ordinary skill in the art at the time of the invention would have been motivated to use Bateman's crossfade on Noreen's mobile

device in order to smoothly transition between the selectable channels (see Bateman col. 1 lines 5 – 35).

11. Regarding Claim 7, in addition to the elements stated above regarding claim 3, Noreen further discloses a data signal identifying addition information (col. 8 lines 44 – 46) and the selectable channel demodulator which is coupled to the RF electronics, receives a selectable data rate and frequency command signal which includes data rate information and frequency information for the selectable channels to identify the data rate and frequency of a channel by automatic functions (col. 11 lines 35 – 45) (i.e. transmitting a command in connection with the lossy encoded file, and automatic activation and use of the lossy encoded file according to the command).

12. Regarding Claims 11, 12 and 15, in addition to the elements stated above regarding claims 3, 4 and 7, Noreen discloses when the mobile station is powered back on the device tunes in to each TDM channel and commands the TDM channel demodulator and decoder to tune into the strongest TDM channel (col. 15 lines 45 – 53) (i.e. pre-determination of whether to transmit through an extraterrestrial satellite or other link and then transmitting through the determined link).

13. Claims 8, 16 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noreen (U.S. Patent 5,455,823) in view of Bateman (U.S. Patent 4,947,440) and in further view of Palmero (U.S. Patent 4,451,898).

14. Regarding Claim 8, in addition to the elements listed above regarding claim 4, Noreen discloses that the TDM channel sends various information to the

mobile stations (col. 8 lines 10 – 15) (i.e. transmitting information in connection with the lossy encoded file), when the mobile station is turned off, then back on again, the data processor and controller once again commands the TDM channel demodulator and decoder to tune in to each TDM channel (col. 15 lines 43 – 45) (i.e. automatic activation of demand for use of the lossy encoded file). Noreen does not disclose contact closure information instructions. Palmero discloses a controller sends a power down command to the receivers (col. 9 lines 49 – 51) (i.e. contact closure information). One of ordinary skill in the art at the time of the invention would have been motivated to use Palemero's power down command on the Noreen and Bateman combination in order to conserve power.

15. Regarding Claims 16 and 20, in addition to the elements stated above regarding claim 8, Noreen discloses when the mobile station is powered back on the device tunes in to each TDM channel and commands the TDM channel demodulator and decoder to tune into the strongest TDM channel (col. 15 lines 45 – 53) (i.e. pre-determination of whether to transmit through an extraterrestrial satellite or other link and then transmitting through the determined link).

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Noreen (U.S. Patent 5,689,245) and Noreen (U.S. Patent 5,303,393).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew C Flanders whose telephone number is (703) 305-0381. The examiner can normally be reached on M-F 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forrester Isen can be reached on (703) 305-4386. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

acf

  
FORESTER W. ISEN  
ADVISORY PATENT EXAMINER